



## CITY OF ROYAL OAK

### A COMPLIANCE GUIDE TO SECTION 3 REQUIREMENTS

#### EMPLOYMENT OPPORTUNITIES FOR LOW INCOME RESIDENTS OF ROYAL OAK

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#### **PURPOSE**

The purpose of this manual is to provide a guide of Section 3 requirements. The manual provides a description of the Federal requirements and a copy of the forms that must be completed for compliance.

#### **BACKGROUND**

Section 3 requires that, to the greatest extent feasible, contractors and subcontractors give preference to hiring low income residents or businesses that are owner or employ low income residents of the Metropolitan Detroit area, with preference to those residing in the City of Royal Oak, when new jobs (full-time for new permanent, temporary, or seasonal positions) are generated to complete HUD-funded projects.

#### **DETERMINING APPLICABILITY & REQUIRED FORMS**

Section 3 requirements apply to community development and housing assistance projects which are provided by the City of Royal Oak via Community Development Block Grant (CDBG) funds or any other funds issued by the U.S. Department of Housing & Urban Development (HUD).

Projects subject to Section 3 requirements involves the construction, reconstruction, conversion or rehabilitation of housing (including reduction of lead-based paint hazards), public improvements such as street repair and construction, installation of public improvements, work at buildings regardless of ownership, etc.

Professional service contracts (e.g. architectural services) are covered under Section 3 requirements provided that work to be performed by the professional is associated with the CDBG-funded project. Section 3 does not apply to the purchase of materials, supplies, or equipment, unless installation "work" is involved.

Funding thresholds are minimum dollar amounts that trigger Section 3 requirements.

#### **Contractors**

All contractors must submit in their bid packet the following, regardless of bid price:

- Contractor Work Force Form
- Section 3 Certification Form

Written agreements between a contractor and the City of Royal Oak equal to or greater than \$100,000 will be subject to the Section 3 requirements of this guide.

**Subrecipients**

All subrecipients provided with equal to or greater than \$200,000 of CDBG funds will be subject to the Section 3 requirements of this guide.

If the subrecipient has an agreement with a contractor greater than \$100,000, then the subrecipient and contractor are both subject to Section 3 requirements. Section 3 requirements only apply to the subrecipient if the agreement with the subcontractor is less than \$100,000.

**Section 3 residents are:**

- a public housing resident or recipient of housing choice voucher;  
**OR**
- live in the Metropolitan Detroit area with a total household income that does not exceed 80% AMI (see the following chart).

<b>Section 3 Income Limits</b>	
<b>Eligibility Guideline – Program Year 2016</b>	
<b>Number of Persons in Household</b>	<b>80% AMI</b>
1 individual	\$0 - \$37,450
2 individuals	< \$42,800
3 individuals	< \$48,150
4 individuals	< \$53,500
5 individuals	< \$57,800
6 individuals	< \$62,100
7 individuals	< \$66,350
8 individuals	< \$70,650
Detroit-Warren-Livonia, MI HUD Metro FMR Area Effective: 03-28-2016	

**Section 3 business** is a firm / company that is:

- fifty-one percent (51%) or more owned by Section 3 residents; or
- employs Section 3 residents for at least thirty percent (30%) of its full-time, permanent staff; or
- provides evidence of a commitment to subcontract to Section 3 businesses, twenty-five percent (25%) or more of the dollar amount of the awarded contract.

**CONTRACTOR WORK FORCE FORM**

*This form shall be completed by contractors in their bid packet regardless of bid price. It will determine the applicability of Section 3 requirements.*

*The below information is certified by the signature of the firm's representative.*

Name of Firm Representative:	
Title of Firm Representative:	
Signature of Firm Representative:	
Date of signature:	
Firm Name:	
d.b.a. (if applicable):	
Street Address:	
City, State, Zip code:	
Telephone #:	
new employees = full-time permanent, temporary, or seasonal positions	
<p>The above signed representative hereby certifies that the above mentioned firm:</p> <p><input type="checkbox"/> DO NOT require new employees to complete any portion of the project (Also complete Contractor Section 3 Certification Form.)</p> <p><input type="checkbox"/> DO require new employees to complete any portion of the project (Also complete Contractor Section 3 Certification Form. Additionally, all of the requirements set forth under S3-5 through S3-18 will apply.)</p>	

**CONTRACTOR SECTION 3 CERTIFICATION FORM**

This form shall be completed by contractors in their bid packet regardless of bid price. It will further determine the applicability of Section 3 requirements.

Subcontractors may be required to submit this form upon request.

Name of Firm Representative:	
Title of Firm Representative:	
Signature of Firm Representative:	
Date of signature:	
Firm Name:	
d.b.a. (if applicable):	
Street Address:	
City, State, Zip code:	
Telephone #:	
Website:	

The above signed representative hereby certifies that the above mentioned firm:

- ☐ Does not meet the below definition of a Section 3 Business  
(if you also checked that you DO NOT require new employees to complete any portion of the project, then no additional forms or data are required.)
- ☐ Meets the definition of a Section 3 Business under at least one of the following qualifying basis:
- ☐ That is at least 51% or more owned by Section 3 residents,
  - ☐ Whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents, or
  - ☐ That provides evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to be awarded to a Section 3 business concern.

Those that meet the definition must submit supporting documentation outlined in HUD's "Certification For Business Concerns Seeking Section 3 Preference In Contracting & Demonstration Of Capability" Form

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3  
PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY**

Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

Type of Business:      ☐ Corporation                      ☐ Partnership  
                                 ☐ Sole Proprietorship              ☐ Joint Venture

Attached is the following documentation as evidence of status:

**For Business claiming status as a Section 3 resident-owned enterprise:**

- |  |   |
|--|---|
| <input type="checkbox"/> Copy of resident lease  | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of evidence of participation<br>in a public assistance program | <input type="checkbox"/> Other evidence                       |

**For business entity as applicable:**

- |   |   |
|---|---|
| <input type="checkbox"/> Copy of Articles of Incorporation  | <input type="checkbox"/> Certificate of Good Standing             |
| <input type="checkbox"/> Assumed Business Name Certificate  | <input type="checkbox"/> Partnership Agreement                    |
| <input type="checkbox"/> List of owners/stockholders and<br>% ownership of each                   | <input type="checkbox"/> Corporation Annual Report                |
| <input type="checkbox"/> Organization chart with names and titles<br>and brief function statement | <input type="checkbox"/> Latest Board minutes appointing officers |
|   | <input type="checkbox"/> Additional documentation                 |

**For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to  
qualified Section 3 business:**

- ☐
- List of subcontracted Section 3 business(es) and subcontract amount

**For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently  
Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment  
with the business:**

- |  |  |
|--|--|
| <input type="checkbox"/> List of all current full-time employees                               | <input type="checkbox"/> List of employees claiming Section 3 status                                     |
| <input type="checkbox"/> PHA/IHA Residential lease less than 3<br>years from day of employment | <input type="checkbox"/> Other evidence of Section 3 status less than 3<br>years from date of employment |

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- ☐ Current financial statement
- ☐ Statement of ability to comply with public policy
- ☐ List of owned equipment
- ☐ List of all contracts for the past two years

\_\_\_\_\_  
Authorizing Name and Signature

(Corporate Seal)

Attested by: \_\_\_\_\_

Contractors that execute an agreement with Royal Oak for CDBG-funded work in excess of \$100,000 are required to include the below language in all written subcontracts.

### **SECTION 3 CLAUSE**

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Contractors that execute an agreement with Royal Oak for CDBG-funded work in excess of \$100,000 are required to take the following steps to meet Section 3 requirements.

## **RESPONSIBILITIES**

### **A) Contractors**

- 1) Notify subcontractors of their responsibilities under Section 3 including, but not limited to, incorporating Section 3 Clause in subcontract documents;
- 2) Refrain from contracting with subcontractors as to whom they have received notice or have knowledge that the subcontractors have been found in violation of the requirements of 24 CFR Part 135;
- 3) Maintain records that document a good faith effort to utilize Section 3 residents and businesses. This is required of both contractor and subcontractor;
- 4) Document action(s) taken to meet numerical goals including applicable forms; &
- 5) Ensure that all subcontractors complete and submit the Contractor Section 3 Certification Form AND Contractor Work Force Form.

### **B) Subrecipients**

- 1) A subrecipient must comply with Section 3 requirements in its own operation. This responsibility includes:
  - A) Complete and submit the following reports when the assistance exceeds \$200,000: Contractor Section 3 Certification Form AND Contractor Work Force Form.
  - B) Notifying Section 3 residents and businesses about jobs and contracts generated by projects subject to Section 3 requirements so that they may submit bids / proposals for available contracts and jobs opening with the subrecipient;
  - C) Notify potential contractors of Section 3 requirements;
  - D) Include the Section 3 Clause in all applicable contracts;
  - E) Document action(s) taken to meet the numerical goals.
- 2) Subrecipients have a responsibility to “ensure compliance” of their contractors and subcontractors. This means that a subrecipient must:
  - A) Ensure that any contractor with an agreement equal to or in excess of \$100,00 must complete and submit the Contractor Section 3 Certification Form AND Contractor Work Force Form.
  - B) Notify contractors of their responsibilities under Section 3 including, but not limited to, incorporating the Section 3 Clause in all contract documents;

- C) Refrain from contracting with subcontractors as to whom they have received notice or have knowledge that the subcontractors have been found in violation of the requirements of 24 CFR Part 135;
  - D) Collection required data under the Section 3 Clause and return the data to the City of Royal Oak;
  - E) Respond to Section 3 complaints;
  - F) Cooperate with the City of Royal Oak and HUD in obtaining compliance of contractors and subcontractors when allegations are made of non-compliance.
- C) City of Royal Oak**
- The city shall assist contractors, subcontractors, and subrecipients by performing the following activities:
- 1) Notifying all applicants for CDBG and other HUD funded projects of the Section 3 applicability;
  - 2) "Section 3 Clause" shall be included in all applicable written agreements;
  - 3) Providing clarification of the Section 3 requirements;
  - 4) Providing the appropriate guidelines and forms;
  - 5) Assisting contractors, subcontractors and subrecipients with notifying Section 3 residents and businesses of new employment opportunities as outlined in "Good Faith Effort";
  - 6) Monitoring, verifying and notify with regard to compliance;
  - 7) Moderate Section 3 complaints;
  - 8) Collect all applicable forms and reports;
  - 9) Report all required data to HUD.



## NUMERICAL GOALS

If a contractor, subcontractor or subrecipient has the need to hire new persons (full-time for new permanent, temporary, or seasonal positions) to complete the project or needs to subcontract portions of the work to another business, they are required to direct their newly created employment and / or subcontracting opportunities to Section 3 residents and businesses.

Federal regulations set numerical goals for all HUD jurisdictions for the hiring / training of Section 3 residents and contracting with Section 3 businesses on HUD assisted projects.

If the following numerical goals are not reached contractors, subcontractors and subrecipients shall demonstrate a "Good Faith Effort" to achieve the numerical goals.

*Training and Employment:* Goals are based on the percentage of new hires.

- 1) Housing assistance: employ Section 3 residents as 10% of the aggregate number of new hires for each year over the duration of the Section 3 project.
- 2) Community development assistance: Employ Section 3 residents as 30% of the aggregate number of new hires for each year over the duration of the Section 3 project.

*Contracts:* Each contractor and subcontractor that meets the threshold requirements may demonstrate compliance with the requirements of Section 3 by committing to award Section 3 businesses:

- 1) At least 10% of the total dollar amount for all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public housing, housing construction and other public construction.
- 2) At least 3% of the total dollar amount of all non-construction contracts covered under the Section 3 requirements.

All those applying for new positions must complete the Income Certification Form For Section 3 Residents to demonstrate their qualification as a Section 3 resident.

Section 3 residents are not guaranteed employment and Section 3 businesses are not guaranteed contracting opportunities.

Section 3 residents must demonstrate that they meet the qualifications for new employment opportunities created as a result of the expenditure of covered assistance.

Likewise, Section 3 businesses must submit evidence to the satisfaction of the party awarding the contract to demonstrate that they are responsible firms and have the ability to perform successfully under the terms and conditions of the proposed contract.

Contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. Preference to Section 3 businesses means that a recipient's or contractor's procurement procedure include methods to provide preference to Section 3 businesses. Accordingly, if a Section 3

business is a responsible bidder, but their bid price is slightly higher than a non-Section 3 firm, the subrecipient agency may give preference to the Section 3 business in an effort to meet its numerical goals annually.

HUD's Office of Fair Housing and Equal Opportunity maintains a list of HUD pre-approved Section 3 business on its website ([www.hud.gov](http://www.hud.gov))

Contractors and subcontractors shall submit the Section 3 – New Hire Work Force Form and any accompanying data to the City of Royal Oak to demonstrate numerical data toward Section 3 requirements.

Subrecipients shall submit the Subrecipient – Contract Award Summary Report to demonstrate efforts to achieve the numerical goals.

### **COMPLIANCE TIME PERIOD**

Yearly - July 1<sup>st</sup> through June 30<sup>th</sup>

The above range of dates identifies the compliance time frame that all contractors, subcontractors, and subrecipients shall report efforts to meet the numerical goals of Section 3. Reports shall be return to the City of Royal Oak Planning Department by no later than July 15<sup>th</sup> or completion of the work; which ever comes first.

### **GOOD FAITH EFFORT**

The city shall verify that contractors, subcontractors, or subrecipients have completed a variety of the following tasks to demonstrate its good faith effort to comply with Section 3 requirements.

Contractors, subcontractors, or subrecipients shall retain all records associated with all attempts to provide a good faith effort and provide the city and HUD with said records upon request.

Construction may not commence until the city has recognized that the contractor, subcontractor, or subrecipient have demonstrated a “good faith effort” to meet the numerical goals of Section 3.

Failure to be recognized as demonstrating a “good faith effort” may result in penalties including disbarment from submitting bids on future HUD funded projects and penalty of payment.

If the contractor, subcontractor, or sub recipient have the need to hire new persons to complete the Section 3 covered contract OR needs to subcontract portions of the work to another business, they are required to direct their newly created employment and / or subcontracting opportunities to Section 3 residents and businesses.

**Contractors, subcontractors, and subrecipients**

Examples of actions demonstrating a “good faith effort” include:

- 1) Target recruitment of Section 3 residents and businesses by:
  - A. Notice of vacant training and employment positions arising out of work to be performed under Section 3 covered projects with lower income project area residents shall contain the following statement: “In compliance with Section 3 of the Housing and Urban Development Act of 1968, as amended, training and employment opportunities arising out of a project assisted under a program providing direct financial assistance from the U.S. Department of Housing and Urban Development shall be given, to the greatest extent feasible, to lower income residents or businesses owned by lower income residents of the Metropolitan Detroit area, with preference for those that reside within the City of Royal Oak. Low income residents or business owned by a low income resident are encouraged to apply”.
  - B. Said notice shall be provided for at least two (2) weeks.
  - C. Said notice shall contain the name, mailing address, telephone number, and website of the contracting firm.
  - D. Said notice may be included in any policy manual, newsletter, website, annual report, and be posted on employee bulletin boards accessible to all employees at each location where construction work is performed.
  - E. Said notice may be provided to contractor’s labor organizations or representatives advising the contractor’s commitments under “Section 3 Clause”.
  - F. Said notice may be disseminated to local newspapers, websites, radio advertising, neighborhood publications, minority publications, trade publications and associations, Royal Oak High School apprenticeship and training liaison, and the City of Royal Oak Human Resource bulletin board.
  - G. Said notice may also be posted at the job site.
  - H. Said notice may be directly distributed to an eligible list of Section 3 Business Concerns, should a contractor or subcontractor maintain such list.
  - I. Said notice may be directly distributed to agencies that administer HUD Youthbuild programs.
  - J. New hires must complete the Income Certification Form For Section 3 Residents.

### **City of Royal Oak**

The city will assist all contractors, subcontractors, or subrecipients to comply with “good faith effort” requirement by undertaking the following:

1. Allow contractors, subcontractors, or subrecipients the opportunity to post job notifications on city property (e.g. Human Resource Department at City Hall, within the city rights-of-way, city community centers, etc.)

### **COMPLAINT PROCEDURE**

In an effort to resolve complaints generated due to non-compliance through an internal process, the City of Royal Oak encourages submittal of such complaints to its Planning Department.

A complaint of non-compliance shall be provided in writing and must contain the name of the complainant and a brief description of the alleged violation of 24 CFR Part 135.

Complaints must be filed within thirty (30) days after the complainant becomes aware of the alleged violation.

An investigation will be conducted if the complaint is found to be valid. The city will conduct an informal, but thorough investigation affording all interest parties, if any, an opportunity to submit testimony and / or evidence pertinent to the complaint.

The city will provide written documentation detailing the findings of the investigation no later than thirty (30) days after the filing of the complaint.

If complainant wishes to have their concerns considered outside the City of Royal Oak, a complaint may be filled with:

Assistant Secretary for Fair Housing and Equal Opportunity  
US Department of Housing & Urban Development  
451 Seventh Street, SW  
Washington, DC 20410

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

**INCOME CERTIFICATION FORM FOR SECTION 3 RESIDENTS**

I, \_\_\_\_\_,  
(print name)

am a legal resident of the City of Royal Oak, Oakland County, Michigan

and meet the income eligibility guidelines for a low income household  
as published on the attachment.

My permanent address is:

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State, Zip Code)

The following identifies my current status as a low income person:

- ☐ Reside in Public Housing or Participation in a  
Housing Choice (Section 8) Voucher Program
- ☐ Have a Total Household Income Below 80% AMI

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**SECTION 3 INCOME LIMITS**

**Section 3 residents** are:

- a public housing resident or recipient of housing choice voucher;
- OR**
- live in the Metropolitan Detroit area with a total household income that does not exceed 80% AMI (see the following chart).

<b>Section 3 Income Limits</b>	
<b>Eligibility Guideline – Program Year 2016</b>	
<b>Number of Persons in Household</b>	<b>80% AMI</b>
1 individual	\$0 - \$37,450
2 individuals	< \$42,800
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6 individuals	< \$62,100
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Detroit-Warren-Livonia, MI HUD Metro FMR Area Effective: 03-28-2016	

This form shall be completed by the contractor at the completion of the reporting period (July 1<sup>st</sup> – June 30<sup>th</sup>) OR at the completion of the work, whichever comes first.

Please print or type the following verification.

Page 1 of 2 (Section 3 – New Hire Work Force Form)

<b>Contracts Awarded</b>	
<b>Construction Contracts:</b>	
A. Number of + \$100,000 subcontracts awarded on this project:	
B. Number of Section 3 business concerns submitting bids:	
C. Number of Section 3 business concerns awarded subcontracts:	
<b>Non-Construction Contracts:</b>	
A. Number of non-construction contracts awarded on this project:	
B. Number of Section 3 business concerns submitting bids:	
C. Number of Section 3 business concerns awarded contracts:	

Contractors, subcontractors, and subrecipients shall comply with the “good faith effort” requirements of this guide.

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low income residents. Check all that apply. Submit evidence to demonstrate intent to conduct “good faith effort”.

- ☐ Attempt to recruit Section 3 residents through: local advertising, media, signs prominently displayed at the project site, etc.
- ☐ Participated in a HUD program or other program which promotes the training of Section 3 residents.
- ☐ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concern.
- ☐ Coordinated with Youthbuild Programs administered in the Detroit Metropolitan area.
- ☐ Other; describe below.

## SUBRECIPIENT – CONTRACT AWARD SUMMARY REPORT

This form shall be completed at the end of the reporting period (July 1<sup>st</sup> – June 30<sup>th</sup>) OR at the completion of the work, whichever comes first.

Submittal deadline: July 15<sup>th</sup> OR at the completion of the work, whichever comes first.

Please print or type the following verification.

[illegible]



**APPENDIX - DEFINITIONS****Section 3 covered assistance**

- public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

**Section 3 business** is a firm / company that is:

- fifty-one percent (51%) or more owned by Section 3 residents; or
- employs Section 3 residents for at least thirty percent (30%) of its full-time, permanent staff; or
- provides evidence of a commitment to subcontract to Section 3 businesses, twenty-five percent (25%) or more of the dollar amount of the awarded contract.

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**New hire** is a full-time employee for a new permanent, temporary or seasonal position that is generated from the expenditure of HUD funds covered by the Section 3 regulations.

**Recipient.** The City of Royal Oak is the direct recipient of federal funding from the US Department of Housing & Urban Development (HUD).

**Subrecipient** is an organization receiving HUD funds from the City of Royal Oak (recipient) for a housing and community development related project.

**Contractor** is a business with contracts / agreements to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Subcontractor** is a business which has a contract / agreement with the contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Section 3 Clause** is the contract provision set forth in 24 CFR Part 135.383.